

Second

**FIRST AMENDMENT TO AMENDED AND RESTATED
LEASE AND OPERATING AGREEMENT**

FEDERAL MARITIME COMMISSION

Second

THIS FIRST AMENDMENT TO AMENDED AND RESTATED LEASE AND

OPERATING AGREEMENT ("Amendment") is made as of the 30th day of

June

, 2008, by and between **PHILADELPHIA REGIONAL PORT**

AUTHORITY ("PRPA"), a body corporate and politic and an independent agency of the Commonwealth of Pennsylvania, with offices at 3460 N. Delaware Avenue, Philadelphia, PA 19134, and **DELAWARE RIVER STEVEDORES, INC. ("DRS")**, a Pennsylvania corporation, with its principal place of business at 441 North Fifth Street, Suite 101, Philadelphia, PA 19123.

BACKGROUND:

A. PRPA and DRS are parties to that certain Amended and Restated Lease and Operating Agreement dated August 15, 2002 (the "**Lease**") respecting DRS's lease and occupancy of certain Premises (as said term is defined in Section 1.1.1 of the Lease), consisting of, inter alia, the Tioga Breakbulk Terminal, the Tioga Marine Terminal and the Tioga Container Terminal and certain cranes ("**Cranes**") located at said Premises, located in Philadelphia, Pennsylvania, together with certain improvements thereon and appurtenances thereto.

C. The parties now desire to amend the Lease as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises herein set forth and intending to be legally bound hereby, the parties hereto agree as follows:

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REC'D P.L.C.B.
PROCUREMENT DIV.
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1. **Effective Date.** The "**Effective Date**" of this Amendment shall be that date on which the last of the following events occurs: (a) the date on which the Attorney General of the Commonwealth of Pennsylvania approves this Lease; or (b) the date on which an executed copy hereof is filed with the Federal Maritime Commission ("**FMC**") in accordance with the Shipping Act of 1984. PRPA shall cause this Amendment to be filed with the FMC promptly following the execution and delivery hereof.

2. **Crane.** Section 1.1.1(ii) of the Lease is amended to include in the definition of the "Cranes" for all purposes under this Lease, Liebherr Mobile Harbor Crane Serial Number 140161. PRPA will provide a limited warranty for replacement parts due to defects and labor to install. The provisions of Section 7.2 of the Lease shall apply to maintenance obligations of all of the Cranes.

3. **Extension of Term.** Section 2.2 of the Lease is hereby amended to provide that the Term of this Lease shall end on October 31, 2022, unless extended or sooner terminated in accordance with the terms of the Lease.

4. **Rent.**

(a) Section 3.1 of the Lease is amended to provide that, commencing on May 1, 2008, "Base Rent" shall be Seven Hundred Fifty Thousand Dollars (\$750,000) for the balance of the Term.

(b) A new Section 3.7 is added to the Lease as follows:

3.7 **Dockage Fee.** For each twenty-four (24) hour period or fraction thereof (a "**Day**") during the Term during which any vessel is docked at the Premises for loading and/or unloading, DRS shall pay to PRPA as additional Rent the following dockage fees per Day per net registered ton (based upon the highest net registered tonnage of the vessel) for each

such vessel docked or moored at the Premises (the "**Dockage Fees**"): (A) until total Dockage Fees collected in a lease year reach Two Hundred Thousand Dollars (\$200,000), twenty-five cents (\$0.25); (B) from Two Hundred Thousand Dollars (\$200,000) to Three Hundred Thousand Dollars (\$300,000), twenty cents (\$0.20); and (C) above Three Hundred Thousand Dollars (\$300,000), fifteen cents (\$0.15).

(c) A new Section 3.8 is added to the Lease as follows:

3.8 Wharfage Fee. In addition to Base Rent, DRS shall pay to PRPA as additional Rent a wharfage fee of (A) ninety cents (\$0.90) per metric ton for the first two hundred sixty thousand (260,000) tons, (B) sixty cents (\$0.60) per metric ton for all tonnage between two hundred sixty thousand (\$260,000) and three hundred forty thousand (\$340,000) tons; and (c) thirty cents (\$0.30) per metric ton for all tonnage above three hundred forty thousand (\$340,000) tons (collectively, the "**Wharfage Fee**"). For purposes hereof, "wharfage" shall mean the charges payable by DRS with respect to the loading or discharging of cargo onto or from a vessel while docked at the Premises.

(d) A new Section 3.9 is added to the Lease as follows:

3.9. CPI Adjustment. Commencing on May 1, 2012, and on each fifth (5th) anniversary thereof during the Term (including any Renewal Period), the Dockage Fee and the Wharfage Fee shall each be adjusted (but in no event decreased) by that sum obtained by multiplying each of the total Dockage Fee and the total Wharfage Fee for the immediately preceding lease year by the cumulative positive change over said five (5) year period in the Consumer Price Index.

5. Section 4.3 is renumbered as Section 4.4, Subsections 4.3.1, 4.3.2 and 4.3.3 are renumbered as Subsections 4.4.1, 4.4.2 and 4.4.3, and the following new Section 4.3 is inserted:

4.3 Dockage & Wharfage Guarantee:
Imperium Exclusion. During the term of this Agreement, DRS hereby guarantees annually to PRPA a minimum of Six Hundred Thousand Dollars (\$600,000) in combined Dockage Fees and Wharfage Fees payable pursuant to Sections 3.7 and 3.8 above. Notwithstanding the foregoing, vessels and tonnage from the Imperium operations at the Premises are excluded from Dockage and Wharfage Fee obligations under this Agreement.

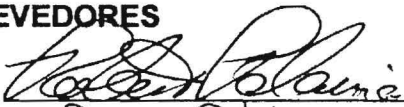
6. Prevailing Wage. During the Term, DRS shall comply fully with PRPA's prevailing wage policy then in effect, if any.

7. Lease Remains in Effect. The Lease, as amended hereby, shall remain in full force and effect. In the event of any conflict between the terms of the Lease and the terms of this Amendment, this Amendment shall control.

8. Execution in Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first written above.

**DELAWARE RIVER
STEVEDORES**


By: 
Name: Robert Polina
Title: President

**PHILADELPHIA REGIONAL
PORT AUTHORITY**

By: 
Name: James T. McDermott, Jr.
Title: Executive Director

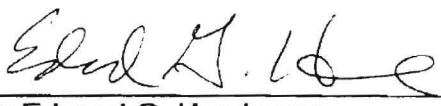
**Approved as to Legality
and Form:**

**PHILADELPHIA REGIONAL
PORT AUTHORITY**


By: 
Name: Gregory V. Iannarelli, Esq.
Title: Chief Counsel

**Approved as to Propriety and
Availability of Funds:**

**PHILADELPHIA REGIONAL
PORT AUTHORITY**

By: 
Name: Edward G. Henderson
Title: Director of Finance & Capital Funding

**OFFICE OF THE ATTORNEY
GENERAL**

By: 
Name: Robert A. Mülle, Esq.
Title: Chief Deputy Attorney General

OFFICE OF THE BUDGET

By: 
Name: Joseph Lawruk
Title: Comptroller